IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 19667 of 2004(N)

AGAINST THE ORDER IN EP.256/98 IN
OS.307/1979 of I ADDL.SUB COURT,TRIVANDRUM

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PETITIONER:

SEETHALAKSHMI AMMAL, KUNNU BUNGLOW.
T.C.2/2301, NWT.C. 2/3080, PANCHAMOODU LINE,
PATTOM, THIRUVANANTHAPURAM -4.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

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1. DR.OMANA AMMA, PADMA BAHVAN,
T.C. NO.2./2350,NEAT PATTOM PALACE,
MADATHUVILAKOM VILLAGE, THIRUVANANTHAPURAM - 4.

2. S.AMBIKA, KUNNU BUNGLOW,T.C.2/2301,
NEW T.C. 2/3080, PANACHAMOODU LANE, PATTOM,
THIRUVANANTHAPURAM.

3. S.SREEKUMARI, KUNNU BUNGLOW,
T/C.2/2301, NEW T.C. 2/3080, PANACHAMOODU LANE,
PATTOM, THIRUVANANTHAPURAM - 4.

4. S.KALA, KUNNU BUNGLOW, T.C.2/2301,
NEW T.C. 2/3080, PANCHAMOODU LANE,
PATTOM, THIRUVANANTHAPURAM - 4.

5. S.LATHAKUMARI, KUNNU BUNGLOW.
T.C.2/2301, PANACHAMOODU LANE, PATTOM,
THIRUVANANTHAPURAM-4.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 19667/04)

PETITIONER'S EXTS.:

EXT.P1: COPY OF THE JUDGMENT IN O.S.307/79 DATED 23.12.1981 IN THE COURT OF 2ND ADDITIONAL SUB JUDGE, THIRUVANANTHAPURAM.

EXT.P2: COPY OF THE E.P.256/98 FILED BY THE 1ST RESPONDENT TO EXECUTE EXT.P1.

EXT.P3: COPY OF THE OBJECTION FILED BY THE PETITIONER IN E.P.256/98 IN O.S.307/79.

EXT.P4: COPY OFTHE E.A. DATED 25.6.2004 FILED FOR ADJOURNMENT OF THE SALE.

EXT.P5: COPY OF THE ORDER DATED 28.6.2004 IN E.P.256/98 IN O.S.307/79 ON THE FILE OF THE 1ST ADDITIONAL SUB JUDGE, THIRUVANANTHAPURAM.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.19667 of 2004

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Dated: 8th June, 2007

JUDGMENT

Ext.P5 order impugned in this case is an order of the execution court directing the petitioner to pay the entire balance amount by the next posting date of the case, i.e., 5.7.2004 threatening that if the entire balance amount is not paid off by then, the property will be sold in auction. The learned Subordinate Judge became constrained to pass the impugned order because the counsel for the decree-holder was not prepared to receive Rs.10,000/- which was tendered by the petitioner towards the decree debt.

2. This court on admitting the Writ Petition granted interim stay on condition that the petitioner shall either to pay or deposit before the court below a sum of Rs.10,000/- within two weeks. Learned counsel for the petitioner submits that the above condition has been complied with.

3. Even though service is completed on the respondents, the respondents have not come forward to enter appearance before this court. The E.P.claim on 8.10.1998 was Rs.26687.50. As on date it should be somewhere around Rs.35,000/- to Rs.40,000/-. Having regard to the submissions of the learned counsel for the petitioner, I

am of the view that the petitioner ought to be granted four more months time for paying the decree debt. Under these circumstances, this Writ Petition will stand disposed of directing the petitioner to pay every month commencing from 16.7.2007 at the rate of Rs.10,000/- on condition that if any instalment is defaulted, he will forfeit the benefit of this judgment. Once the petitioner feels that the entire decree debt is wiped off, it is open for him to file an application before the court for recording full satisfaction. If such an application is received the court below will hear both sides and pass appropriate orders on that application.

srd **PIUS C.KURIAKOSE, JUDGE**